

# **EXHIBIT I**

**URGENT**

**URGENT**

HEALTH CARE FINANCING ADMINISTRATION  
DIVISION OF CORRESPONDENCE CONTROL AND MANAGEMENT

CLEARANCE SHEET

TO: OL, OGC, OCSQ, CMSO, Press Office

DATE: June 14, 2000

SUBJECT: Medicare Average Wholesale Price (AWP) for Drug Pricing--DECISION

CLEARANCE/COMMENTS DUE: NO LATER THAN COB TODAY - June 14

*Note: To better facilitate the clearance process DCCM will make all editorial/technical changes. Please focus your review on substantive comments.*

CONTROL NUMBER:

CIS -

COMPONENT CONTACT/PHONE NO:

CHPP - Bob Niemann - 786-4569

ALTERNATE CONTACT/PHONE NO:

\_\_\_\_\_

I CONCUR/NONCONCUR:

\_\_\_\_\_

DATE:

\_\_\_\_\_

SPECIAL INSTRUCTIONS: **URGENT - MUST BE CLEARED BY COB TODAY.**

FROM: Glenda Bailey

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If we have not received a response by the due date, or an explanation for your delay, the correspondence will be forwarded for the Administrator's approval without your input. Straight concurrences can be phoned in to your DCCM desk officer.

**DEPARTMENT OF HEALTH HUMAN SERVICES**

Health Care Financing Administration

Director

Center for Health Plans and Providers

JUN 14 2000

TO: The Administrator  
 THRU: The Deputy Administrator \_\_\_\_\_  
 FROM: Director  
 Center for Health Plans and Providers

SUBJECT: Medicare Average Wholesale Price (AWP) for Drug Pricing--**DECISION**

**BACKGROUND:**

For drugs covered under Medicare, the statute sets payment at 95 percent of the AWP. However, neither the statute, regulations, nor manual instructions define AWP. Our current program instructions indicate that carriers should use the Red Book, Blue Book or Medispan in their determinations of the AWP. All carriers except one (Texas) use the hardcopy Red Book.

The United States Department of Justice (DOJ), the HHS Office of Inspector General and the National Association of Medicaid Fraud Control Units (NAMFCU) have brought to our attention a source of average wholesale price (AWP) data for certain drugs that is more accurate than what has been available to date. These data have been compiled at the DOJ for about 400 national drug codes (NDC) representing about 50 different chemical compounds. Most, but not all, of these drugs are eligible for Medicare coverage.

Through action by the National Association of Medicaid Fraud Units (NAMFCU) and the Justice Department (DOJ), effective May 1, 2000, State Medicaid programs have used a new kind of AWP for a list of about 400 national drug codes (NDC) representing 51 chemical compounds. These new AWP's are based on prices actually advertised by drug wholesalers (e.g., McKesson). The Administration has committed to Bliley (and others) to use these data for Medicare as well, and to issue an instruction this month. To that end, we have prepared a program memorandum (PM) that sends these data to the carriers and strongly urges their use. Two related issues remain.

**ISSUE 1:**

REDACTED

**OPTIONS:**

A.

REDACTED

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REDACTED

B.

C.

RECOMMENDATION:  
REDACTED

ISSUE 2:

REDACTED

OPTIONS:

A.

REDACTED

B.

RECOMMENDATION:

REDACTED

*Robert A. Bereason M.D.*

Robert A. Bereason, M.D.

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DECISION:

ISSUE 1:

REDACTED

OPTION A:

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Date \_\_\_\_\_

OPTION B:

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Date \_\_\_\_\_

OPTION C:

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Date \_\_\_\_\_

ISSUE 2:

REDACTED

OPTION A:

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Date \_\_\_\_\_

OPTION B:

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Date \_\_\_\_\_